



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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April 11, 1991

TO COUNTY ASSESSORS:

SEISMIC SAFETY
NEW CONSTRUCTION EXCLUSION

No. 91/26

Senate Constitutional Amendment 33 of the 1989-90 Regular Session, approved by the voters at the November 6, 1990, general election, excludes from the term "new construction" seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies made to existing buildings or structures. This letter is to inform you that Section 74.5 of the Revenue and Taxation Code, which had been added to implement the constitutional amendment, has been repealed and reenacted by Chapter 8 of the Statutes of 1991, Assembly Bill 43 (Floyd).

The Governor signed Assembly Bill 43 on December 13, 1990, as an urgency statute which became operative January 1, 1991. The section has a sunset clause of July 1, 2000. The new statute makes changes in the types of improvements that qualify for the exclusion as well as the process for claiming and granting the exclusion. Seismic safety projects completed prior to January 1, 1991, are subject to the previous provisions of Section 74.5 which were added by the Statutes of 1989, Chapter 988.

To qualify for this exclusion, the improvements must be made to an existing building or structure and must meet the specified definition of "seismic retrofitting improvements" or "improvements utilizing earthquake hazard mitigation technologies."

Section 74.5(b)(1) defines "seismic retrofitting improvements" as:

". . . retrofitting or reconstruction of an existing building or structure, to abate falling hazards from structural or nonstructural components of any building or structure including, but not limited to, parapets, appendages, cornices, hanging objects, and building cladding that pose serious danger . . . and either structural strengthening or providing the means necessary to reduce seismic force levels that would otherwise be experienced by an existing building or structure during an earthquake, so as to significantly reduce hazards to life and safety while also providing for the substantially safe ingress and egress of building occupants during and immediately after an earthquake. 'Seismic retrofitting improvements' shall not include alterations, such as new plumbing, electrical, or other added finishing materials, made in addition to seismic-related work performed on an existing structure."

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Therefore, to exclude "seismic retrofitting improvements" from assessment, the improvements must fit into one of the following classifications:

Retrofitting or reconstructing to abate falling hazards that pose serious danger;

or

Structural strengthening;

or

Improvements reducing seismic force levels during an earthquake to significantly reduce the hazards to life and safety and also provide safe entry and exit during and immediately after an earthquake.

Section 74.5(b)(2) defines "improvements utilizing earthquake hazard mitigation technologies" as:

" . . . improvements, to existing buildings identified by a local government as being hazardous to life in the event of an earthquake, that utilize earthquake hazard mitigation technologies approved by the State Architect pursuant to Section 16102 of the Health and Safety Code."

Therefore, to exclude "improvements utilizing earthquake hazard mitigation technologies" from assessment requires that both:

- (1) The building be identified by a local government as being hazardous to life in the event of an earthquake;
- and
- (2) The technology used must be approved by the State Architect.

Section 16102 of the Health and Safety Code requires the State Architect to develop and adopt regulations for the application of earthquake hazard mitigation technologies to buildings by January 1, 1992.

The new construction exclusion provisions of Section 74.5 cannot be applied to seismic safety reconstruction and improvements that qualify for exclusion under Section 70(d) of the Revenue and Taxation Code. Section 70(d) provides a fifteen-year exclusion from new construction for reconstruction or improvements made to unreinforced masonry bearing wall structures which are necessary to comply with local ordinances.

In order to receive the exclusion, property owners must notify the assessor that they intend to claim the exclusion from assessment prior to, or within 30 days of, completion of the project. A property owner, primary contractor, civil engineer, or architect must certify to the building department the portions of the project that meet the exclusion specifications. The local building department must then report the value of any qualified new construction to the county assessor when the project is complete. The property owner must file all documents necessary to support the exclusion with the assessor on or before the following April 15.

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The State Board of Equalization is charged with the duty of prescribing the manner and form for claiming the exclusion. The form should be available by June. Until the prescribed form is available, taxpayers requesting the exclusion should file a written statement with the assessor prior to, or within 30 days of, completion of the project in order to meet the filing requirements. The property owner must state that he/she "intends to claim the exclusion from new construction provided by Section 74.5 of the Revenue and Taxation Code." Claimants should be advised that this statement serves only to meet the filing requirements. A prescribed form will be required when it is available.

If you have questions or comments on the seismic safety exclusion, please feel free to contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

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